

CONTRACT

between the

Joint Municipal Employees' Retirement System

and the

City of Marietta, Georgia

consisting of

1. Ordinance of the City of Marietta
2. A Retirement Plan of the City of Marietta
3. A Joint Trust Agreement

AN ORDINANCE

AMENDING the Code of Ordinances of the City of Marietta, Georgia Chapter 16 Article II and III; Sections 16-11 through 16-103.

WHEREAS, the Mayor and Council deem it desirable to provide the employees of the City of Marietta, Georgia with an improved retirement plan, and;

WHEREAS, said retirement plan will be provided more compatibly by the Joint Municipal Employees' Retirement System (Ga. L. 1965, p. 421).

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA THAT:

Section 1. Except as herein otherwise provided, Article II establishing the Retirement Plan for the General City Employees of the City of Marietta, Georgia and Article III establishing the Retirement Plan for the Policemen and Firemen of the City of Marietta, Georgia are hereby amended by striking both in their entirety and by substituting in lieu thereof this Ordinance establishing a new Retirement Plan for the Employees of the City and setting forth a joint trust agreement and a contract for administration of said plan by the City and the Joint Municipal Employees' Retirement System, as provided by Ga. L. 1965, as amended, hereinafter contained as Articles I through XV and Appendix A.

Section 2. The rights and obligations of persons who retired prior to the effective date of this Ordinance are fixed and shall be governed by the retirement of pension plan as they existed and were in effect at the time of such retirement and except as herein otherwise provided, the provisions of the retirement plan in effect prior to the effective date of this Ordinance shall be continued in effect for the purpose of payment of pensions to pensioners retired prior to such effective date and their beneficiaries, if any.

Section 3. The retirement benefits of any employee in the active employ of the City on the effective date of this Ordinance, who immediately prior thereto shall have been included in either of the superseded plans and who maintains his eligibility as a participant under such superseded plan, and who declines to waive his accrued pension benefits under his respective retirement plan that was in existence and which is expressly superceded by this Ordinance shall retain any entitlement to benefits originally provided under such superseded plan upon his actual termination of employment and attainment of his retirement date in accordance with the provisions of his respective superseded plan. Such benefits shall be based upon the provisions of the superseded plan under which he was included and which, except as herein otherwise provided, shall be continued in effect for the purpose of the payment of pensions to employees declining to waive their pension benefits in favor of the benefits specified in the plan established by this Ordinance. Benefits afforded under the superseded plan to such employees will be determined in accordance with said superseded plan.

Section 4. Each Eligible Employee who shall have been included in either of the superseded plans at the Effective Date of this Plan shall be included in this Plan as of its Effective Date, if within thirty (30) days following the Effective Date of this Plan, he shall have delivered to the pension committee a waiver, in the form provided for such purpose, of the benefits to which he shall then be entitled under such superseded plan, in recognition of the benefits to which he shall be entitled under this Plan.

Section 5. If a Participant in this Plan who was included in either of the superseded plans and who was a Full-Time Employee on the Effective Date of this Plan would, on Retirement be entitled to a larger benefit under his respective superseded plan than under this Plan, he is entitled to receive the larger benefit. The method of payment of any benefit under this Section, any options with respect to such benefits and related matters are governed solely by the provisions of the superseded plans and the superseded plans shall be continued in effect for such purpose. A person who receives a benefit under the provisions of either superseded plan is not entitled to any benefit under this Plan.

Section 6. The effective date of this Ordinance shall be November 1, 1973 and ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

DATE: September 20, 1973

APPROVED: James R. Hunter

Mayor and Council

ATTEST: Robert M. Gersch

City Clerk

APPROVED AS TO FORM: Marjorie D. Quinn

City Attorney

APPROVED FOR COUNCIL ACTION: Ernest Miller

City Manager

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ARTICLE I

This Ordinance shall constitute the Retirement Plan of the City of Marietta, Georgia for the exclusive benefit of the City Employees according to the terms and conditions hereinafter contained; and when accepted and executed by the authorized officer of JMERS, shall also constitute the Contract between the City and said JMERS, all as authorized and provided by Ga. L. 1965, p. 421, as particularly amended by Ga. L. 1966, p. 539, Ga. L. 1968, p. 1387, Ga. L. 1970, p. 201, Ga. L. 1971, p. 210, Ga. L. 1972, p. 637, 747, Ga. L. 1973, p. 446, and said Ordinance and Contract shall be subject to amendment from time to time by the City and by subsequent amendment of the Act above referred to.

ARTICLE II. DEFINITIONS

The following words and phrases as used in this Ordinance, unless a different meaning is plainly required by the Contract, shall have the following meanings.

- Section 1. Retirement System, System, or JMERS shall mean the Joint Municipal Employees' Retirement System created by Ga. L. 1965, p. 421, as amended particularly by Ga. L. 1966, p. 539, Ga. L. 1968, p. 1387, Ga. L. 1970, p. 201, Ga. L. 1971, p. 210, Ga. L. 1972, p. 637, 747, Ga. L. 1973, p. 446 and any amendments hereinafter.
- Section 2. Board of Trustees, Board shall mean the Board of Trustees of the Joint Municipal Employees' Retirement System.
- Section 3. Contract shall mean the entire contents of this Ordinance, Plan, and Joint Trust Agreement and any amendments made hereafter.
- Section 4. JMERS Investment Fund shall mean the total amounts of all Contributions plus Interest, invested or uninvested, held by the Board of Trustees for all JMERS member municipalities and their Employees where applicable.

Section 5. Trust Fund

shall mean the total amounts, invested or uninvested, held at any time by JMERS in trust for the City under the Joint Trust Agreement attached hereto and denoted as Appendix A.

Section 6. Plan

shall mean the provisions of this Ordinance setting forth the employees to be covered, the benefits to be provided and the conditions of retirement and all amendments thereto which may hereafter be made, all shall be known as Retirement Plan for Employees of the City of Marietta, Georgia.

Section 7. Plan Year

shall mean each twelve (12) month period ending on the day immediately preceding each November 1

Section 8. City, Town, Member Municipality, or Employer

shall mean the City of Marietta, Georgia.

Section 9. Governing Authority

shall mean the Mayor and Council of the City of Marietta, Georgia.

Section 10. Pension Committee

shall mean the committee appointed by the City in this Ordinance to represent the City in the administration of the Plan hereby established.

Section 11. Effective Date of
the Plan

shall mean November 1, 1973.

Section 12. Enrollment Date

shall mean the date that an Eligible Employee becomes a Participant under this Plan. Said date will be established by the Pension Committee on a form provided for that purpose.

Section 13. Employee

shall mean any person who is regularly employed in the services of the City.

Section 14. New Employee

shall mean any Employee hired after the Effective Date of the Plan except as otherwise provided for in Article III, Section 3.

Section 15. Full-Time Employee

shall mean an Employee who works at least thirty (30) hours per week.

Section 16. Eligible Employee

shall mean any Full-Time Employee who comes within the provision of Article III, Section 2, and who is not an Ineligible Employee as defined herein.

Section 17. Ineligible Employee

shall mean any Employee in the class or classes enumerated in Article III, Section 1.

Section 18. Contributions

shall mean payments made to JMERS to provide the benefits specified in the Plan.

Section 19. Interest

shall mean a pro rata share of any and all interest, dividends, and/or capital gains or losses earned on the invested or reinvested funds of the JMERS Investment Fund.

Section 20. Participant or Participating Employee

shall mean any Eligible Employee who complies with the requirements of Article III, Section 4.

Section 21. Retired Participant

shall mean any Participant who has qualified for Retirement under any provision of the Plan and who is entitled to receive any pension provided under the Plan.

Section 22. Terminated Participant

shall mean terminated Employees who have Vested Benefits under any provision of the Plan.

Section 23. Service

shall mean regular service rendered as an Employee of the City. Service includes absence from active employment with the City under conditions which are not treated by it as a termination of employment.

Section 24. Past Service

shall mean the number of years and complete months, determined by the Employer, to represent uninterrupted Service of a Participant in the employment of the City prior to his Enrollment Date.

Section 25. Credited Past Service

shall mean the number of years and complete months of Past Service creditable for the purposes of computing pension hereunder as prescribed in Article V, Section 1b(1).

Section 26. Credited Future Service

shall mean the number of years and complete months, determined by the Employer, to represent uninterrupted credited Service of a Participant in the employment of the City from his Enrollment Date in the Plan to the effective date of his Retirement as prescribed in Article V, Section 1b(2).

Section 27. Total Credited Service

shall mean the sum of Credited Past Service and Credited Future Service, as defined herein, of a Participant, but shall be limited to such maximum number of years, if any, as may be prescribed in Article V, Section 1b(3).

Section 28. Earnings

shall mean the total normal compensation paid to an Employee of the City for Service rendered but shall exclude compensation for overtime, reimbursed expenses, and other unusual compensation. In all cases, earnings shall include holiday and vacation pay and payments made by the City on behalf of an Employee during periods of authorized absence for illness and other reasons.

Section 29. Annual Earnings

shall mean the Earnings, as determined by the Employer, which have been paid to a Participant on account of Service rendered during any consecutive twelve (12) calendar month period immediately preceding the anniversary of his Enrollment Date. It shall be limited to such maximum amount, if any, as may be prescribed in Article V, Section 1b(5), of the Plan.

Section 30. Final Average Earnings

shall mean the average Annual Earnings computed in accordance with the provisions of Article V, Section 1b(4) of the Plan.

Section 31. Retirement

shall mean withdrawal from Service with a retirement allowance granted under the provisions of the Plan. The City may engage on a retainer or fee basis any person receiving benefits hereunder and such engagement will not terminate or suspend such benefits.

Section 32. Normal Retirement
Date

shall mean the first day of the month coinciding with or next following the day a Participant qualified for Retirement as provided in Article IV, Section 2.

Section 33. Early Retirement
Date

shall mean the first day of the month coinciding with or next following the day a Participant qualified for Retirement as provided in Article IV, Section 3.

Section 34. Normal Retirement
Age

shall mean age fifty-five (55) for Class 1 Employees and age sixty-five (65) for Class 2 Employees as defined in Article III, Section 2.

Section 35. Early Retirement
Age

shall mean age forty-five (45) for Class 1 Employees and age fifty-five (55) for Class 2 Employees as defined in Article III, Section 2.

Section 36. Monthly Retirement
Benefit

shall mean the monthly pension as provided in Article V or any optional benefit payable in lieu thereof as provided in Article VI or any death or termination benefit payable under the provisions of Article VII.

Section 37. Beneficiary,
Beneficiary Prior
to Retirement,
Beneficiary in
Retirement

shall mean the person designated by the Participant in writing on prescribed forms to receive any death benefit provided for a Beneficiary of a Participant in Article VI, Sections 2 and 4 and/or Article VII, Sections 1 and 2.

Section 38. Joint Annuitant

shall mean the person designated by the Participant from time to time in writing on prescribed forms to receive the death benefits provided for a Joint Annuitant in Article VI, Sections 2 and 3 and/or Article VII, Section 2b.

Section 39. Actuary

shall mean an individual, or firm appointed or approved by JMERS to perform actuarial calculations necessary in the funding of the Plan.

Section 40. Actuarial Equivalent shall mean a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the Board of Trustees.

Section 41. O.A.S.D.I.

shall mean the federal old age, survivors, and disability insurance benefits under the Social Security Act and any amendments thereto.

Section 42. Vesting, Vested
Right, Vested
Benefit

shall mean the rights of a Terminated Participant as specified in Article VII, Section 3, of the Plan.

Section 43. Covered Compensation shall mean the amount listed in the Covered Compensation Table, Article V, Section 7, opposite the year of birth of any Participant. It is further defined as the amount of compensation which O.A.S.D.I. benefits would provide for an employee under the Social Security Act if his annual compensation for each year until he reaches age sixty-five (65) has been and will continue to be at least equal to the maximum amount of earnings for which taxes are payable under the Social Security Act.

Section 44. Disability

shall mean a physical or mental disability of a Participant who because of such disability becomes entitled to receive disability insurance benefits under Title II of the Federal Social Security Act; provided, however, that such Disability shall not have been (a)

Section 44. Disability
(continued)

self-inflicted, (b) incurred in military service, (c) incurred in the commission of a felonious enterprise, or (d) the result of the use of narcotics or drugs or habitual alcoholism.

Section 45. Disability
Retirement Date

shall mean the first day of the first calendar month in which a Participant becomes entitled to receive disability insurance benefits under Title II of the Federal Social Security Act.

Section 46. Current Average
Cost-of-Living
Index Figure

shall mean, as of any date, the average of the August monthly Consumer Price Index figures, relative to the United States as a whole, most recently issued as of such date by the Bureau of Labor Statistics of the United States Department of Labor. Should the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, it shall mean the average adjusted by the Pension Committee, with the advice of the actuary of the Plan, so as to give effect to such revision in an equitable manner.

Section 47. Cost-of-Living
Base Figure

shall mean the Current Average Cost-of-Living Index Figure of a Participant as of his actual retirement date or any subsequent annual adjustment date. The Cost-of-Living Base Figure for beneficiaries receiving pensions shall be the Current Average Cost-of-Living Index Figure beginning on the annual adjustment date following such beneficiary's entitlement to a pension or any subsequent annual adjustment date.

ARTICLE III. ELIGIBILITY, QUALIFICATION AND PARTICIPATION

Section 1. Ineligible Classes of Employees. The following classes of Employees shall not become eligible for participation in the Plan.

CLASS 1 - Employees who regularly work less than thirty (30) hours per week in the Service of the City.

CLASS 2 - Any person employed by the City to perform scientific, technical, engineering, accounting, legal, or similar expert services in a consulting capacity.

CLASS 3 - Any person employed for less than six (6) months in any year, or on a retainer or fee basis.

Section 2. Eligible Classes of Employees. The following classes of Employees who are not excluded by Article III, Section 1 shall qualify for participation by meeting the pertinent requirements set forth in Article III, Section 3.

CLASS 1 - Permanent policemen and firemen.

CLASS 2 - All other Full-Time Employees.

Section 3. Qualifications for Participation.

a. Each Employee who is, on the Effective Date of the Plan, regularly employed in the services of the City shall be qualified to apply for participation in the Plan:

(1) If he has completed one year of continuous Service on or prior to the Effective Date of the Plan, or

(2) On the first day of the month immediately following

or coinciding with the date subsequent to the Effective Date of the Plan that he completes one year of continuous Service provided that the period of Service between the Effective Date of the Plan to his Enrollment Date was continuous and uninterrupted.

b. Each New Employee hired after the Effective Date of the Plan shall be eligible to participate in the Plan on the first day of the month immediately following or coinciding with the date he completes one year of continuous Service; provided, however, that he has not attained age fifty-six (56), or forty-six (46) if such Employee is employed as a permanent policeman or fireman, whichever is applicable.

c. Any Eligible Employee hired after the Effective Date of the Plan, whose immediate prior employment was with another City in the JMERS and who was a Participant in that City's Plan, shall be allowed to become a Participant on the first day of the month coinciding with or next following the month in which he is employed, regardless of any other requirements in Article III, Section 3.

d. Any Eligible Employee who is reemployed in an Eligible Employee Class shall be considered a New Employee as of his date of reemployment unless he meets one of the following conditions.

(1) A former Participant who is reemployed in an Eligible Employee Class within one year after termination of his employment with the City may resume participation on the first day of the month immediately following or coinciding with his reemployment, but the time he was absent shall not be taken into account for the purpose of calculating retirement or termination benefits under the Plan.

(2) A former Participant who is reemployed in an Eligible Employee Class more than one year after his date of ter-

mination and who spent the interim period in the continuous employment of another City in the JMERS may resume participation on the first day of the month coinciding with or next following the month in which he is reemployed, but the time he was absent shall not be taken into account for the purpose of calculating retirement or termination benefits under the Plan.

(3) A former Participant who is reemployed in an Eligible Employee Class after a period of involuntary service in the Armed Forces of the United States, and who meets the provisions of Article III, Section 4d, may resume participation on the first day of the month coinciding with or next following the month in which he is reemployed, but the time he was absent shall not be taken into account for the purpose of calculating retirement or termination benefits under the Plan unless otherwise authorized by the Governing Authority.

(4) A former Participant who is reemployed in an Eligible Employee Class after being on an authorized leave of absence and who meets the provisions of Article III, Section 4d, may resume participation on the first day of the month coinciding with or next following the month in which he is reemployed in accordance with the terms of the leave as approved by the Governing Authority.

Section 4. Participation

a. Each Eligible Employee who meets the qualifications for participation in the Plan as set forth in Article III, Section 3, shall become a Participant in the Plan by filing with the Pension Committee, on a prescribed form, such information as shall be required by the Pension Committee, which shall include the Employee's acceptance of the terms and conditions of the Plan.

b. Participation in the Plan shall not give any Employee the right to be retained in the employ of the City, nor, upon dismissal, to have any right or interest in the Trust Fund other than is herein provided.

c. Participation shall be deemed to be automatically terminated by a quit, resignation or discharge, by lapse of recall rights after layoff, by ceasing to be an Eligible Employee as defined herein, by failure to return to Service as an Eligible Employee at the end of an approved leave of absence.

d. The Governing Authority shall determine the date of expiration of any leave of absence granted to a Participant, and if the Participant has not returned to his regular employment as an Eligible Employee in accordance with such determination, his interest, if any, under the Plan shall only be such as existed at the commencement of such leave of absence. If, after a Participant's Enrollment Date, a leave of absence has been or is granted to him for the purpose of involuntary service in the Armed Forces of the United States or for some other purpose as approved by the Governing Authority, he shall for the purposes of the Plan, not be deemed to have broken continuity of Credited Future Service (but such

periods of absence shall not be counted as Credited Future Service for the purpose of computing a pension hereunder unless the leave, as authorized by the Governing Authority, specifically permits the Participant to continue accumulating Credited Future Service during the authorized leave of absence) provided:

(1) Such a Participant was regularly employed by the City immediately prior to his leave of absence, and

(2) He makes application for reemployment on or before the date of expiration of any leave of absence or within ninety (90) days after he first becomes entitled to his discharge or release from involuntary service in the Armed Forces of the United States, and

(3) He is reemployed as an Eligible Employee within ninety (90) days after such application.

ARTICLE IV. RETIREMENT ELIGIBILITY AND DATES

Section 1. Retirement Eligibility.

a. The Retirement prerequisites of a Participant under this Plan are contingent upon the method of Retirement selected by such Participant; that is, Normal Retirement, Early Retirement, Delayed Retirement, or Disability Retirement. The prerequisites associated with each Retirement method shall be as specified below in Sections 2, 3, 4, and 5, respectively, of this Article IV.

b. Retirement under the Plan is contingent upon the satisfactory completion of a prescribed form provided for such purpose and the acceptance of the Retirement application by the Pension Committee.

c. Retirement applications shall be prepared and submitted at such time to reach the office of JMERS no earlier than ninety (90) days and no later than thirty (30) days prior to a Participant's effective Retirement Date.

Section 2. Normal Retirement Date.

a. Except as otherwise provided in Section 4a(2) of this Article IV, the Normal Retirement Date of a Participant shall be the first day of the month coinciding with or next following the date he has attained age:

(1) Fifty-five (55) for Class 1 Employees as defined in Article III, Section 2.

(2) Sixty-five (65) for Class 2 Employees as defined in Article III, Section 2.

b. A Participant shall retire from the employment of the City on his Normal Retirement Date except as otherwise provided in Sections 3, 4, and 5 of this Article IV.

Section 3. Early Retirement Date. A Participant may retire from the Service of the City on the first day of any month prior to his Normal Retirement Date, provided he has a minimum of ten (10) years of Total Credited Service and has attained age forty-five (45) if such Participant is a Class 1 Employee or age fifty-five (55) if such Participant is a Class 2 Employee as defined in Article III, Section 2.

Section 4. Delayed Retirement Date.

a. A Participant may continue employment with the City beyond the Normal Retirement Date under any one of the following conditions:

(1) If the Participant has completed ten (10) years of Total Credited Service under the Plan when he attains the Normal Retirement Age, he may continue employment with the City by receiving special permission from the Governing Authority. Upon actual Retirement he shall receive the Delayed Retirement Benefit provided in Article V, Section 3.

(2) If the Participant has not completed ten (10) years of Total Credited Service under the Plan when he attains the Normal Retirement Age, he has the option to retire with his accrued Monthly Retirement Benefit at that date, or continue his employment until the earlier of:

(a) Completion of ten (10) years of Total Credited Service at which time he would continue employment only with special permission from the Governing Authority, or

(b) Attainment of age sixty-five (65) if such Participant is a Class 1 Employee or age seventy (70) if such Participant is a Class 2 Employee as defined in Article III,

Section 2.

(c) If the Participant does not elect to retire at the Normal Retirement Age, (a) or (b) above shall become his Normal Retirement Date and upon actual Retirement he shall receive the Retirement benefit for which he became eligible at the occurrence of (a) or (b) above.

b. Subsequent to the first anniversary of the Effective Date, Retirement may not be delayed beyond age sixty-five (65) if such Participant is a Class 1 Employee or age seventy (70) if such Participant is a Class 2 Employee as defined in Article III, Section 2.

Section 5. Disability Retirement Date. A Participant may retire under the provisions of the Plan on the first day of the first calendar month in which a Participant becomes entitled to receive disability insurance benefits under Title II of the Federal Social Security Act regardless of any age or service restrictions otherwise contained herein. Upon actual Retirement such Participant shall receive the Disability Retirement Benefit provided in Article V, Section 4, or any other Retirement Benefit granted under the Plan for which he is eligible if such benefit is greater than the aforesaid Disability Retirement Benefit. However, under no circumstances shall any Retired Participant be entitled at one time to more than one type of retirement benefit granted under the Plan.

ARTICLE V. RETIREMENT BENEFITS

Section 1. Normal Retirement Benefit.

a. A Participant, upon Retirement on his Normal Retirement Date, shall receive a Monthly Retirement Benefit under which payments shall commence on the first day of the month following his Normal Retirement Date and shall be payable on the first day of each month thereafter during his lifetime. The amount of the Monthly Retirement Benefit shall be determined as one-twelfth ($1/12$) of the sum of (1) and (2) below:

(1) Past Service - One (1) percent of the Final Average Earnings up to the amount of Covered Compensation for the Participant's applicable year of birth in the Table included in Article V, Section 7, plus one and three-fourths ($1-3/4$) percent of Final Average Earnings in excess of the Covered Compensation applicable to the Participant, multiplied by total years of Credited Past Service.

(2) Future Service - One (1) percent of the Final Average Earnings up to the amount of Covered Compensation for the Participant's applicable year of birth in the Table included in Article V, Section 7, plus one and three-fourths ($1-3/4$) percent of Final Average Earnings in excess of the Covered Compensation applicable to the Participant, multiplied by total years of Credited Future Service.

b. The following provisions shall apply to the calculation of (1) and (2) above:

(1) Credited Past Service

(a) Credited Past Service shall be the amount of Past Service of a Participant. Breaks in regular full-time employment prior to the Effective Date of the Plan followed by five (5) years of service or leave of absence will not break continuity of Service but will not be considered as a period of Credited Past Service.

(b) Any Eligible Employee who does not elect to become a Participant as of the date he is first qualified to do so may elect to become a Participant on the first day of any succeeding month; provided, however, that the Credited Past Service of such Participant shall not include the period of employment from the date he was first qualified to become a Participant to the date he elects to become a Participant, or any creditable Past Service due him on the date he was first qualified to become a Participant under the Plan; and, further provided, that he has enough time remaining until Normal Retirement Age to accrue at least ten (10) years of Total Credited Service.

(2) Credited Future Service shall be as defined in Article II, Section 26, and limited to time spent as a Participant in the active employ of the City, except as provided in Article III, Section 4d.

(3) Total Credited Service, both past and future, shall be the sum of Credited Past and Credited Future Service. The amount of Total Credited Service for any Participant shall be unlimited except that no credit will be given for Service which precedes a Participant's most recent date of employment as a New Employee.

(4) Final Average Earnings shall mean the average of the Annual Earnings paid to a Participant during any consecutive

five (5) year period preceding his actual date of Retirement in which his Earnings were highest; or if he had less than five (5) years of Total Credited Service, then his Final Average Earnings shall be his average Earnings for his Total Credited Service.

(5) Maximum Annual Earnings to be used for computing Final Average Earnings shall be unlimited.

(6) Final Average Earnings as defined in subparagraph (4) above shall be used for computing the Monthly Retirement Benefit except as herein otherwise provided.

(7) Full months of Credited Past and Future Service shall be treated as fractions of one (1) year. Partial months shall not be included in the calculation.

Section 2. Early Retirement Benefit. A Participant, upon Retirement on his Early Retirement Date, shall, at his election, receive either:

a. An immediate Monthly Retirement Benefit under which payment shall commence on the first day of the month following the Participant's Early Retirement Date and shall be payable on the first day of each month thereafter during the lifetime of the Participant. The amount of each Monthly Retirement Benefit shall be computed in the same manner as for a Normal Retirement Benefit, but based on Annual Earnings and Total Credited Service up to the Participant's Early Retirement Date, and the benefit so computed shall be reduced on an Actuarially Equivalent basis in accordance with tables and rules in use by JMERS at that time; or

b. A delayed Monthly Retirement Benefit under which payment

shall commence on the first day of the month coinciding with or next following the Retired Participant's attainment of his Normal Retirement Age and shall be payable on the first day of each month thereafter during the lifetime of the Participant. The amount of each monthly Retirement Benefit shall be computed in the same manner as for a Normal Retirement Benefit, but based upon Annual Earnings and Total Credited Service up to the Participant's Early Retirement Date.

Section 3. Delayed Retirement Benefit. The Delayed Retirement Benefit shall be calculated in the same manner as the Normal Retirement Benefit and in the case of Class 1 Employees as defined in Article III, Section 2, increased actuarially due to the Participant's actual age at retirement. In determining the Delayed Retirement Benefit, Total Credited Service shall include the sum of Credited Past Service and Credited Future Service accruing after the attainment of the Participant's Normal Retirement Age.

Section 4. Disability Retirement Benefit. The amount of the Disability Retirement Benefit shall be calculated in the same manner as the Normal Retirement Benefit with no actuarial reduction for age imposed. In no event, however, will a Participant's Disability Retirement Benefit be less than twenty percent (20%) of his average monthly Earnings for the twelve (12) calendar month period immediately preceding his termination of employment as a result of a Disability. Upon Retirement on his Disability Retirement Date, a Participant shall receive a Monthly Retirement Benefit commencing on the first day of the month coinciding with his Disability Retirement Date and payable on the first day of each month thereafter so long as his Disability continues.

Section 5. Cost-of-Living Adjustment.

a. The amount of the Benefits payable under this Plan to a Participant classified as a Class 1 Employee as defined in Article III, Section 2, or his Beneficiary shall be adjusted by the Current Average Cost-of-Living Index Figure as provided herein.

b. The Current Average Cost-of-Living Index Figure shall be ascertained as of October 1 in each year.

c. Each Monthly Retirement Benefit then being received shall thereupon be adjusted as follows:

(1) Each Monthly Retirement Benefit shall be increased by a percentage equal to the percentage representing the Current Average Cost-of-Living Index Figure divided by each recipient's Cost-of-Living Base Figure. If the Current Average Cost-of-Living Index Figure is less than the Average Cost-of-Living Index Figure determined on October 1 of the previous calendar year, no reduction in the Monthly Retirement Benefit shall be effected.

(2) Notwithstanding the foregoing provisions, no increase in the amount of a Monthly Retirement Benefit due to changes in the Current Average Cost-of-Living Index Figure effective at any annual adjustment date (October 1) shall be in excess of an average increase of four percent (4%) of the amount of the Monthly Retirement Benefits payable immediately prior to each Participant's or Beneficiary's applicable adjustment date.

Section 6. Suspension of Benefits.

a. Any Retirement pension payable under this Plan to any Participant who shall have retired or been retired pursuant to any provisions of Article IV or whose Service with the City shall have terminated on or after his Vesting date shall be suspended as of the date he is reemployed by the City except as otherwise provided herein and shall be resumed as of the first day of the month coinciding with or next following his subsequent Retirement. In any case where the payment of a Participant's Retirement pension shall have been so suspended, the Retirement pension payable on his subsequent Retirement (whether before or after his Normal Retirement Date) shall be the benefit computed in accordance with this Article V on the basis of his aggregate Credited Service and his Final Average Earnings at the time of his subsequent Retirement but reduced on an actuarial basis by the value of any Early Retirement Benefits received by him prior to being reemployed as an Eligible Employee, except that the resulting benefit shall not be less than the benefit payable at the time of his previous Retirement. For the purposes of this Section 6, any such Participant's Credited Service subsequent to his reemployment by the City shall commence as of the date of his reemployment as an Eligible Employee.

b. Any Disability Retirement pension payable under this Plan to any Participant who shall have retired or been retired pursuant to the provisions of Article IV, Section 5, shall be suspended as of the date his Disability ceases. In any case where the payment of a Participant's Disability Retirement pension shall have been so suspended, said period of absence from employment due to such Disability shall be treated as a leave of absence without pay and the

provisions of Article III, Section 4 shall apply except that such period of absence shall not be counted as Credited Future Service. Any Participant who shall have retired or been retired pursuant to the provisions of Article IV, Section 5 and who dies or who has been or shall be subsequently declared ineligible for a Disability Retirement Benefit because of a cessation of said Disability shall have a right to any benefit afforded under any other provision of this Plan to which he or his Beneficiary might otherwise be entitled. In such a case any Disability Retirement payments made prior to the date his Disability ceases or is declared to no longer exist shall be retained by the retiree and disregarded in computing any other benefit payable under this Plan.

Section 7. Covered Compensation Table

COVERED COMPENSATION TABLE

Year of Birth	Covered Compensation Amount	Year of Birth	Covered Compensation Amount	Year of Birth	Covered Compensation Amount
1903 or earlier	\$4,944	1916	\$6,432	1929	\$6,900
1904	5,160	1917	6,480	1930	6,984
1905	5,352	1918	6,528	1931	7,080
1906	5,520	1919	6,576	1932	7,176
1907	5,652	1920	6,612	1933	7,260
1908	5,784	1921	6,660	1934	7,332
1909	5,892	1922	6,696	1935	7,416
1910	6,000	1923	6,720	1936	7,500
1911	6,084	1924	6,756	1937	7,572
1912	6,168	1925	6,792	1938	7,656
1913	6,240	1926	6,816	1939	7,728
1914	6,312	1927	6,840	1940	7,764
1915	6,372	1928	6,864	1941 or later	7,800

figures stay the same

ARTICLE VI. OPTIONAL FORMS OF RETIREMENT INCOME

Section 1. Election of Optional Retirement Benefits. A Participant may elect, or may revoke a previous election and make a new election, at any time prior to his actual retirement date, to have his retirement benefit payable under one of the options hereinafter set forth in lieu of the retirement benefit he is otherwise entitled to receive. The benefit shall be paid in accordance with the terms of such option elected. Election of any option shall be made by the Participant in writing and shall be subject to approval by JMERS.

Section 2. Description of options. The amount of any optional retirement benefit set forth below shall be the Actuarial Equivalent of the amount of benefit that would otherwise be payable to the Participant under Article V.

OPTION A: Joint and Survivor Option. A decreased retirement benefit which shall be payable during the lifetime of the Participant and, if his Joint Annuitant should survive him, shall continue after his death during the lifetime of his Joint Annuitant in the same amount or in such smaller amount as the Participant may designate. If the Joint Annuitant does not survive the Participant, all payments shall cease at the death of the Participant and no further benefits will accrue to his estate or to other persons except as provided in Article VII, Section 2. This option shall be known as Option A.

OPTION B: Period Certain and Life Option. A decreased retirement benefit payable monthly to the Participant during his lifetime and in the event of his death within a period of five (5), ten (10), fifteen (15) or twenty (20) years after his Retirement, the same monthly amount shall be payable for the balance of such period to a Beneficiary in Retirement designated by him. If the Beneficiary in Retirement does not survive the Participant all payments shall cease at the death of the Participant and no further benefits will accrue to his estate or to other persons except as provided in Article VII, Section 2. This option shall be known as Option B.

OPTION C: Social Security Option. An increased retirement benefit payable to the Participant during his lifetime until his retirement benefits commence under O.A.S.D.I. and a decreased retirement benefit payable thereafter for life in order to have a more level retirement income when such decreased retirement benefit is added to his primary benefits under O.A.S.D.I. determined as of his Early Retirement Date. At the death of the Participant all payments will cease and no further benefits will accrue to the estate of the Participant or to other persons except as provided in Article VII, Section 2. This option shall be known as Option C.

Section 3. Joint Annuitant. A Participant who elects Option A shall, on a form provided for that purpose, designate a person to receive benefits which continue to be payable upon the death of the Retired Participant. Such person shall be the Joint Annuitant of the Participant.

Section 4. Beneficiary in Retirement. A Participant who elects Option B shall, on a form provided for that purpose, designate a person to receive benefits which will continue to be payable upon the death of the Retired Participant within a specified period after his Retirement.

Section 5. Cancellation of Election. The election of a Participant of any option in Section 2 of this Article VI shall be null and void if either the Participant or his designated Joint Annuitant or Beneficiary in Retirement shall die before benefits commence.

ARTICLE VII. DEATH OR TERMINATION OF EMPLOYMENT

Section 1. Death Prior to Retirement.

a. If the employment of a Participant is terminated by reason of his death prior to his Retirement in accordance with the provisions of Article IV, there shall be payable to his designated Beneficiary a monthly death benefit actuarially equivalent to the reserve required for the Participant's anticipated normal Retirement benefit assuming that his age at the time of his death is sixty-five (65). and that the Total Credited Service used to calculate the Participant's anticipated normal Retirement benefit shall include the amount of Credited Service accrued prior to the date of the Participant's death plus one-half ($1/2$) of the Service between such date of death and what would otherwise have been the Participant's Normal Retirement Date. In no event shall the amount of Total Credited Service exceed the sum of the actual Service performed plus ten (10) calendar years.

b. Designation of a Beneficiary Prior to Retirement may be changed by the Participant in writing at any time prior to actual Retirement on a form provided for that purpose. Only the last such designation of a Beneficiary Prior to Retirement will have effect and any new designation of a Beneficiary Prior to Retirement invalidates, supersedes, and revokes any prior designation.

Section 2. Death After Retirement. Upon the death of a Participant subsequent to his Retirement in accordance with Article IV, Sections 1, 2, 3, 4, or 5, there shall be payable to the Participant's designated Beneficiary, Beneficiary in Retirement, or Joint Annuitant a benefit to be determined as follows:

a. If the Participant has not elected an optional form of payment, as provided in Article VI, or if he has elected an optional form of payment and his designated Joint Annuitant or Beneficiary in Retirement does not survive him, no further payment of any kind whatsoever shall be made at the death of the Participant unless he shall die before the total sum of his Accumulated Contributions, if any, has been paid to him in which case the balance will be paid in a lump sum to his designated beneficiary or estate.

b. If the Participant has elected an optional form of payment, as provided in Article VI and his designated Joint Annuitant or Beneficiary in Retirement survives him, benefits shall be payable to the Beneficiary in Retirement or Joint Annuitant as provided in the option elected. However, if the total sum of his Accumulated Contributions if any, has not been paid to said Participant prior to his death the balance shall be paid in a lump sum to his designated Beneficiary.

Section 3. Termination of Employment Before Retirement.

a. A Participant whose employment is terminated, either voluntarily or involuntarily, for any reason other than death or Retirement, after one (1) year or more of participation in the Plan will have a right to a Vested Retirement Benefit under which payment shall commence, at the option of the Participant, on the first day of the month coinciding with or next following his Normal or Early Retirement Date as prescribed in the Plan and shall be payable on the first day of

(1) That his next Employer and each successive Employer until Retirement be a JMERS employer who affords its Employees a Vested Retirement privilege as afforded in this Article VII, Section 3;

(2) That the Participant must meet, through his Total Credited Service with all Employers prior to Retirement, the age, Service, and Participation requirements for Normal or Early Retirement as provided for herein;

(3) That the amount of each Monthly Retirement Benefit shall be computed in the manner prescribed for Normal or Early Retirement in Article V herein, but based on his Final Average Earnings and Total Credited Service up to the Participant's date of termination of employment with the City;

(4) That in the event his final JMERS Employer allows Delayed Retirement beyond the Normal Retirement Date, that the benefit under this Article VII, Section 3 shall begin when the Participant retires and shall be computed as prescribed in Article V, Section 3.

b. A Participant whose employment is terminated under any of the following conditions for any reason other than death or retirement shall be entitled to a Vested Right in his accrued Retirement benefits. Payment of such Vested Retirement Benefit shall commence on the first day of the month coinciding with or next following his Normal or Early Retirement Age at the option of the Participant and shall be payable on the first day of each month thereafter during the life of the Participant. The amount of each Monthly Retirement Benefit shall be computed in the manner prescribed for Normal or Early Retirement in Article V herein, but based upon his Final Average Earnings and Total Credited Service up to the Participant's date of termination of employment with the City.

(1) A Participant whose employment is terminated voluntarily or involuntarily shall be entitled to a Vested Benefit if he has completed a minimum of ten (10) years of Credited Service in the Plan.

(2) A Participant whose employment is terminated involuntarily and without cause shall be entitled to a Vested Benefit if he has completed a minimum of five (5) years of Credited Service in the Plan. For the purpose of this condition, 'cause' for dismissal shall mean negligence or inefficiency in performing the duties of the position held, unfitness to perform assigned duties, insubordination, or misconduct reflecting discredit on the City or upon the Governing Authority.

(3) A Participant whose employment is terminated voluntarily or involuntarily because he is disabled shall be entitled to a Vested Benefit provided he qualifies for Disability Retirement under the provisions of the Plan within one (1) year of said termination of employment.

ARTICLE VIII. CONTRIBUTIONS

Section 1. City Contributions. The City shall make the necessary Contributions to fund this Retirement Plan. The amount of these Contributions shall be based upon the mortality tables adopted by the Board of Trustees, the benefits provided in this Plan, and the number of Participants and their respective ages, Earnings and lengths of Creditable Service and such other factors as the Board of Trustees shall deem appropriate to properly fund this Plan. All Contributions by the City shall be used only for the benefit of the Participants, Beneficiaries, and Joint Annuitants. City Contributions shall be collected monthly by the Pension Committee and shall be remitted to JMERS on or before the fifth (5th) day of the month following collection.

Section 2. Participant Contributions. The Participants shall not be required to make any Contributions to the cost of this Plan.

ARTICLE IX. PENSION COMMITTEE

Section 1. Creation and Composition. There is hereby created a Pension Committee which shall be composed of the following:

- a. City Attorney or other attorney appointed by the Governing Authority.
- b. City Manager.
- c. Two Class 1 Employees as defined in Article III, Section 2, elected annually by such Class 1 Participants.
- d. Two Class 2 Employees as defined in Article III, Section 2, elected annually by such Class 2 Participants.
- e. Two appointed members of the Governing Authority.

Section 2. Responsibilities. The Pension Committee shall have the following responsibilities.

a. In its dealings with JMERS or its duly appointed representatives the Pension Committee shall:

- (1) Furnish all information with respect to enrollment of Employees.
- (2) Collect and remit to JMERS all required Contributions.
- (3) Furnish JMERS, in accordance with its rules and regulations, all reports, and other records required to administer this Plan.
- (4) Notify JMERS, in accordance with its rules and regulations, of all benefit elections made by Participants under this Plan and all matters regarding payment of benefits.
- (5) Notify JMERS of the termination of Participating Employees.

b. In dealing with the City's Employees, the Pension Committee shall:

(1) Be responsible for the enrollment of Eligible Employees.

(2) Handle distribution of all reports to Participants.

(3) Handle arbitration between the City and Participants in all matters regarding the Plan.

(4) Handle any notices of eligibility, benefits, available options, and any other notices required by this Plan, Contract, or rules and regulations of JMERS.

Section 3. Secretary. The Pension Committee shall designate in writing, a secretary or other representative who shall have full authority to represent the Committee in all communications with JMERS and the City's Employees. A copy of such written designation shall be forwarded to JMERS.

Section 4. Legal Assistance. The City Attorney or other attorney appointed by the Governing Authority shall furnish legal advice to the Pension Committee with respect to the Plan and the Committee's assigned responsibilities hereunder.

ARTICLE X. BOARD OF TRUSTEES

Section 1. Powers. The powers of the Board of Trustees of JMERS as fixed by the Act of the General Assembly (Ga. L. 1965, p. 421, as amended by Ga. L. 1966, p. 539, Ga. L. 1968, p. 1387, Ga. L. 1970, p. 201, Ga. L. 1971, p. 210, Ga. L. 1972, p. 637, 747, and Ga. L. 1973, p. 446, and as hereafter amended) are hereby incorporated as a part of the Contract. The City agrees that, in the administration of the Plan, it will comply with all rules and regulations adopted by the Board of Trustees under its authority as granted by said Act.

Section 2. Composition and Election. The composition of the Board of Trustees and the election of its members shall be as provided by an Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System (Ga. L. 1965, p. 421, Ga. L. 1966, p. 539, Ga. L. 1968, p. 1387, Ga. L. 1970, p. 201, Ga. L. 1971, p. 210, Ga. L. 1972, p. 637, 747, and Ga. L. 1973, p. 446, and as hereafter amended) and as may be provided in the bylaws of the Board of Trustees of the Joint Municipal Employees' Retirement System.

Section 3. Officers. The election of officers by the Board of Trustees shall be conducted as may be prescribed by an Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System, as amended, and as may be provided in the bylaws of the Joint Municipal Employees' Retirement System.

Section 4. Notice of Elections. The Board of Trustees may provide through its bylaws for the giving of notice of elections, notice

of any vacancy on the Board, the method or manner in which votes may be cast, any other matter necessary or incident to the election of members of the Board. The Board may also provide for a proxy vote, and may determine how, when, and in what manner voting by proxy may be had in accordance with an Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System (Georgia Laws 1965, page 421, as amended) and as may be provided in the bylaws of the Board of Trustees of the Joint Municipal Employees' Retirement System..

Section 5. Voting. The Board shall determine from its records the number of votes a municipality is entitled to cast in any election in accordance with the formula set forth in an Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System, and as may be provided in the bylaws of the Board of Trustees of the Joint Municipal Employees' Retirement System.

Section 6. Voting Representative for the City. The secretary, or other designated representative of the Pension Committee, shall be the official representative of the City insofar as matters pertaining to JMERS are concerned and is hereby designated as such official representative to cast the City's vote in any election of members of the JMERS Board of Trustees and in any other matters which the membership has the authority and responsibility for resolving unless the City notifies JMERS to the contrary in writing.

ARTICLE XI. JOINT TRUST AGREEMENT

The Mayor is hereby designated and authorized to enter into and execute on behalf of the City, the Joint Trust Agreement (attached hereto as Appendix A) with the Board of Trustees.

ARTICLE XII. CLAIMS AND LITIGATION

Section 1. Disputes. In the event of disagreement between a Participant and the City with respect to any rights, claims, or responsibilities under the Plan which cannot be resolved by the Pension Committee as provided under Article IX, the Participant may make an appeal regarding such rights, claims, or responsibilities to the Governing Authority. In the event that any such rights, claims, or responsibilities result in a suit or other legal action by a Participant, Beneficiary, Beneficiary Prior to Retirement, Beneficiary in Retirement, or Joint Annuitant, such action shall be defended in the same manner as other suits against the City. Any legal action on behalf of the City in regard to the Plan shall be first authorized by the Governing Authority and shall be conducted in the manner prescribed by the Governing Authority. JMERS shall have no responsibility to defend or pursue legal action arising under the Plan.

Section 2. Failure to Act. JMERS shall not be responsible for the failure of the City to perform any of its obligations under the Plan, including the duty to remit payments to JMERS, to provide necessary records concerning Participating Employees and Participating Employees' Earnings to JMERS, or any other functions required of the City by the Plan, Contract or by the rules and regulations of JMERS.

ARTICLE XIII. AMENDMENT AND TERMINATION

Section 1. Amendment of the Plan. The Governing Authority shall have the right at any time, and from time to time, to amend, in whole or in part, any or all of the provisions of the Plan; provided, however, that no such amendment shall:

- a. Reduce the accrued benefits of any Participant or Beneficiary, or
- b. Authorize or permit any part of Trust Fund held by JMERS to be diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries, and
- c. No amendments shall operate to deprive any Participant or Beneficiary of any rights or benefits irrevocably vested in him under the Plan prior to such amendment except that the Governing Authority may make any and all changes and modifications necessary to qualify the Plan or to keep the Plan qualified under the Internal Revenue Code and the regulations thereunder, or any amendment thereto.
- d. Provided further that no amendment shall become effective until approved by JMERS.

Section 2. Termination of the Plan.

- a. The City expects the Plan to be continued indefinitely but, of necessity, reserves the right to terminate the Plan and Contributions thereunder at any time by action of the Governing Authority. Upon receipt of written notice from the Governing Authority of termination of the Plan, JMERS shall prepare a list of all Participants showing for each, as of the date of Plan termination, the following:

(1) For each Retired Participant, Joint Annuitant, and Beneficiary in Retirement receiving payment of benefits, the amount and terms of payment of such benefits.

(2) For each Terminated Participant entitled to a deferred benefit, the amount, commencement date, and terms of payment of such benefit,

(3) For each active Participant the amount of his accrued benefit.

b. JMERS, in accordance with its current rules and regulations, shall arrange for the liquidation of all assets held in the Trust Fund maintained in connection with the Plan and shall prepare a statement of the liquidated value of such assets. The Governing Authority, in its sole discretion, may direct JMERS to purchase from an insurance company an annuity contract or contracts which provides the benefits to which each Participant, Joint Annuitant, or Beneficiary in Retirement is entitled or to pay a lump sum to each Participant, Joint Annuitant, or Beneficiary in Retirement, such lump sum amount to be Actuarial Equivalent of the benefit to which such Participant, Joint Annuitant, or Beneficiary in Retirement is entitled.

c. JMERS shall then deduct from the assets total remaining expenses incurred or to be incurred by JMERS in behalf of the Plan. JMERS, pursuant to its rules and regulations, shall then allocate the remaining assets for distribution in accordance with the classes listed below. The benefits of each class shall be satisfied before proceeding to the next class. If at any time, the remaining Plan assets would be insufficient to provide the accrued benefits for the

class in question, the remaining assets would be applied on a pro rata basis within that class, and all subsequent classes would receive no benefit.

CLASS 1 - Retired Participants, Joint Annuitants, or Beneficiaries in Retirement who are receiving payments on the termination date.

CLASS 2 - Participants delaying Retirement.

CLASS 3 - Participants eligible for Early Retirement.

CLASS 4 - Former Employees who are Terminated Participants.

CLASS 5 - All other Participants on a pro rata basis.

d. Upon distribution of the assets as specified above, the Plan shall be regarded as terminated and no Participant, Joint Annuitant, or Beneficiary in Retirement shall have any further rights or claim therein.

ARTICLE XIV. MISCELLANEOUS

Section 1. Construction.

a. In the construction of the Plan all masculine shall include the feminine and the singular the plural in all cases where such meanings would be appropriate.

b. The Plan shall be construed in accordance with the Laws of the State of Georgia.

Section 2. Non-Alienation of Benefits. None of the benefits, payments, proceeds or distributions payable under the Plan shall be subject to the claim of any creditor of any Participant or to the claim of any creditor of any Beneficiary, or Joint Annuitant, hereunder, or to any legal process of levy or attachment by any creditor of any such Participant, Joint Annuitant, or Beneficiary; and no such benefits shall be in any manner liable for or subject to the debts, liabilities, engagements, or torts of any Participant or Beneficiary; and neither any such Participant, Joint Annuitant, or Beneficiary shall have any right to alienate, commute, anticipate, transfer, encumber, pledge or assign any of the benefits, payments, proceeds, or distributions under the Plan.

If any Participant or Beneficiary shall become bankrupt or attempt to anticipate, assign, or pledge any benefits, then such benefits shall, in the discretion of the Pension Committee, cease, and in that event the Pension Committee shall have authority to cause the same, or any part thereof, to be held or applied to or for the benefit of such member, his spouse, his children, or other dependents,

or any of them, in such manner and in such proportion as the Pension Committee may think proper.

Section 3. Legally Incompetent. Any Participant, Joint Annuitant, or Beneficiary receiving or claiming benefits under the Plan shall be conclusively presumed to be mentally competent and of age until the Pension Committee receives a written notice, in a form and manner acceptable to it, that such person is incompetent or a minor, and that a guardian or other person legally vested with the care of his estate has been appointed. In the event that the Pension Committee finds that any person to whom a benefit is payable under the Plan is unable to properly care for his affairs, or is a minor, then any payment due (unless a prior claim therefor shall have been made by a duly appointed legal representative) may be paid to the spouse, a child, a parent, or a brother or sister, or to any person deemed by the Pension Committee to have incurred expense for such person otherwise entitled to payment. In the event a guardian of the estate of any person receiving or claiming benefits under the Plan shall be appointed by a court of competent jurisdiction, payments shall be made to such guardian provided that proper proof of appointment is furnished in a form and manner suitable to the Pension Committee. Any payment so made shall be a complete discharge of liability therefor under the Plan.

Section 4. Benefits Supported Only by Trust Fund. Any person having any claim under the Plan will look solely to the assets of the Trust Fund for satisfaction. In no event will the City, or any of its employees or agents, be liable in their individual

capacities to any person whomsoever, under the provisions of the Plan or of the Joint Trust Agreement.

Section 5. Discrimination. The City, through the Pension Committee, shall administer the Plan in a uniform and consistent manner with respect to all Participants and shall not permit discrimination in favor of supervisory or highly paid Employees.

Section 6. Limitation of Liability; Legal Actions.

a. It is expressly understood and agreed by each Employee who becomes a Participant hereunder that, except for its or their willful neglect or fraud, neither the City, the Pension Committee, nor the Board of Trustees shall be in any way subject to any suit or litigation, or to any legal liability, for any cause or reason or thing whatsoever, in connection with the Plan or its operation, and each such Participant hereby releases the City, all its Employees and agents, the Pension Committee, and the Board of Trustees from any and all liability or obligation.

b. To any action or proceeding involving any rights under the Plan or the proper administration thereof, the City and the Pension Committee shall be the only necessary parties and no Participant, or his Beneficiary, Joint Annuitant, or any other persons having or claiming to have an interest in the Plan shall be entitled to any notice or process. Any final judgement which is not appealed or appealable that may be entered in any such action or proceeding shall be binding and conclusive on the parties hereto and all persons having or claiming to have an interest in the Plan.

Section 7. Claims. Any payment to a Participant, Joint Annuitant, or Beneficiary, or to their legal representatives, in accordance with the provisions of the Plan, shall to the extent thereof be in full satisfaction of all claims hereunder against the Pension Committee or the City, either of which may require such Participant, Beneficiary, Joint Annuitant, or legal representative, as a condition precedent to such payment, to execute a receipt and release therefor in such form as shall be determined by the Pension Committee or the City, as the case may be.

Section 8. Application for Benefits. Any provision in the Plan to the contrary notwithstanding, benefits may become payable only after the Participant, Joint Annuitant, Beneficiary, or their legal representative, whichever is applicable, has made written application therefor to the Pension Committee. Benefits for which no such application has been made within three (3) years following the date of entitlement to such benefits shall be forfeited. In no event shall any forfeitures be applied to increase the benefits any Participant or Beneficiary would otherwise receive under this Plan.

Section 9. Intent. The City hereby agrees to abide by the bylaws and the rules and regulations of the Board of Trustees of JMERS in all matters pertaining to the operation and administration of the Contract. It is intended that the Act creating the Board of Trustees of JMERS, the rules and regulations of the Board, the bylaws of the Board, and this Contract are to be construed in harmony with each other. But in the event of a conflict in the provisions of any of the foregoing, they shall govern in the following order:

a. The Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System, Ga. L. 1965, p. 421, Ga. L. 1966, p. 539, Ga. L. 1968, p. 1387, Ga. L. 1970, p. 201, Ga. L. 1971, p. 210, Ga. L. 1972, p. 637, 747, and Ga. L. 1973, p. 446, and as hereafter amended;

b. The rules and regulations of the Board;

c. The bylaws of the Board;

d. This Ordinance and Contract.

Section 10. Fraud, Embezzlement, Theft, and Dismissal for Cause. In the event the Employer shall receive prior to a Participant's actual Retirement date, written confession by such Participant, or proof satisfactory to the Governing Authority that such Participant has committed or has been convicted of having committed an act of fraud, embezzlement, or theft in connection with the Plan, his Participation in the Plan shall be forthwith terminated; and any vested interest that said Participant may have in the fund shall be forfeited.

Section 11. Errors in Computation of Benefits. Any overpayments or underpayments from the Trust Fund to a Retired Participant or to a Beneficiary in Retirement caused by errors of computation shall be adjusted with interest at the rate of five percent (5%) per year compounded annually. Overpayments shall be charged against Retirement payments next succeeding the correction. Underpayments shall be made up from the Trust Fund.

ARTICLE XV. REPEALER CLAUSE

All Ordinances or parts of Ordinances in conflict herewith
are hereby repealed.

IN WITNESS WHEREOF, the City has caused its Seal and Signatures of its authorized officers to be affixed this 21st day of September, 1973.

Attest:

Bethann M. Goscha
Signature
City Clerk
Title

Approved as to Form and Substance:

Henry L. Dazier
Signature
City Attorney
Title

(SEAL)

City of Marietta, Georgia

by James H. Hunter
Signature
Mayor
Title

W. K. Deek
Signature
Councilman
Title

J. N. Ruck
Signature
Councilman
Title

J. W. Black
Signature
Councilman
Title

[Signature]
Signature
Councilman
Title

R. C. Read Sr.
Signature
Councilman
Title

[Signature]
Signature
Councilman
Title

Thomas W. Hill
Signature
Councilman
Title

The terms and conditions of the foregoing Ordinance and Plan are hereby adopted and agreed to.

IN WITNESS WHEREOF, the Board of Trustees of the Joint Municipal Employees' Retirement System has caused its Seal and the Signatures of its duly authorized officers to be affixed this day of, 1973.

Attest:

Board of Trustees
Joint Municipal Employees'
Retirement System

Secretary

by Chairman

(SEAL)

APPENDIX A
to
The Retirement Plan of the
City of Marietta, Georgia

JOINT TRUST AGREEMENT

This agreement between the City of Marietta, Georgia Settlor (herein called the "City") and the Board of Trustees of the Joint Municipal Employees' Retirement System, a public corporation established by Ga. L. 1965, p. 421, as amended particularly by Ga. L. 1966, p. 539, Ga. L. 1968, p. 1387, Ga. L. 1970, p. 201, Ga. L. 1971, p. 210, Ga. L. 1972, p. 637, 747, Ga. L. 1973, p. 446 (herein called the "Trustee").

WITNESSETH:

WHEREAS the City of Marietta, Georgia desires to provide Retirement Benefits for the sole and exclusive benefit of its Employees, and for such purpose has heretofore on the 20th day of September , 1973, adopted a Contract providing for the terms and conditions of such benefits, all in accordance with the above stated Act; and,

WHEREAS, such Contract provides for the execution of this Trust Agreement with the Joint Municipal Employees' Retirement System;

Now, therefore, in consideration of the mutual promises, purposes and trusts herein contained and contained in said Contract, it is mutually agreed as follows:

ARTICLE I. TRUST FUND

Section 1.

a. Payments to the Trustee shall be remitted from time to time in accordance with the terms of said Contract and said moneys, which are the subject of this Trust, shall be held, administered, invested, reinvested, and distributed, all in accordance with this Trust instrument.

b. The Trustee's responsibilities shall be as fixed by the said Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System, by this instrument and by the said Contract. The Trustee is specifically held harmless by the City from any liability to any Participating Employee for benefits under the City's Plan, but shall be responsible only to the City for the proper administration of the moneys paid to the Trustee and payment of such moneys as directed by the City or its Pension Committee.

Section 2. It is the intent and purpose of this agreement that this Trust be one of several trusts executed under authority of an Act creating the Board of Trustees of the Joint Municipal Employees' Retirement System. It is understood by the parties to this Trust Agreement that it be similar in nature to other trust instruments executed with the Board of Trustees of the Joint Municipal Employees' Retirement System, and the Trustee is hereby authorized to co-mingle assets of this Trust Fund with assets of other such Trust Funds of a similar nature in a common fund known as the JMERS Investment Fund.

ARTICLE II. POWERS

Section 1. The Trustee may place assets held by it with banks or trust companies having corporate trust powers and authorized to do business in the State of Georgia, and to authorize any such bank or trust company to invest and reinvest such assets for its account, subject to the provisions relating to investments by domestic insurance companies under the Laws of Georgia. The Trustee may employ such banks and trust companies as agents for the keeping of records and the receipt and disbursement of moneys held by and due the Trustee.

Section 2. The Trustee may place assets held by it with insurance companies authorized to do business in the State of Georgia for the purpose of investment at guaranteed or anticipated rates of interest. The Trustee may purchase insurance contracts on the lives of Participating Employees and may purchase annuity contracts to provide Retirement benefits to Participating or Retired Employees and pay all premiums thereon. The Trustee may employ such insurance companies to provide actuarial advice and to provide services in the keeping of records and the receipt and disbursement of moneys held by or due the Trustee.

Section 3. The Trustee is authorized to invest and reinvest assets held by it in any investments which are legal investments for domestic insurance companies under the Laws of Georgia, or which may become such legal investments by future amendment to the applicable laws, and to purchase, acquire, hold, lease, sell and convey real and personal property.

ARTICLE III. MANAGEMENT OF TRUST FUND

Section 1. The Trustee shall maintain:

- a. A Contribution account for the City, to which shall be credited its Contributions and Interest, if any, under the Plan, and
- b. Such other accounts, if any, as may be reasonably required in the discretion of the Trustee.

Section 2. There shall be charged against the above accounts all payments made therefrom pursuant to the terms of the Plan and the rules and regulations of JMERS.

Section 3. Any other payments of expenses required to be paid by the Trustee for the administration of this Plan shall be charged to the JMERS Administrative Account.

Section 4. The Trust Fund is the interest of the City and its Participants in the JMERS Investment Fund shall be represented by units which shall constitute equal interest in such fund. The Trustee may, from time to time, establish new or additional funds and separate and place therein new Contributions rather than adding to the existing fund, and units therein shall represent equal interest in the respective funds.

Section 5. The Trustee shall prescribe in its rules and regulations the method of valuation of assets.

ARTICLE IV. VALUATION OF FUND

Section 1. The Trustee shall determine the principal and Interest of the Trust Fund on periodic dates, established by the Trustee, but at least each twelve (12) months. Interest shall be determined by the Trustee in accordance with an established method which it may prescribe in its rules and regulations. The Interest shall be added to and become a part of the principal of the Trust Fund on such valuation date as established by the Board, but at least each twelve (12) months.

Section 2. The principal value on any valuation date of each unit into which the fund is divided, as hereinbefore provided, shall be determined by dividing the then principal value of the fund by the number of units into which the fund is then divided.

ARTICLE V. AUDIT OF FUND

At least once during each period of twelve (12) months, an audit shall be made of the JMERS Investment Fund and JMERS Administrative fund by independent public accountants responsible only to and appointed by the Trustee. The accountants appointed shall include in each audit a statement of the accounts of the Trustee, a list of investments, and other assets comprising the JMERS Investment Fund as of the date of the audit, which shall mean the last day of the period covered, and shall show the valuation placed on each item in accordance with the valuation method adopted by the Trustee, as of the date of the audit, a statement of charges, sales, and any other investment charges and of all Interest and disbursements since the last audit, and appropriate comments as to any investment in default as to principal or interest. Promptly upon receipt by the Trustee of each audit, the Trustee shall send notice to each member municipality to whom a periodic regular accounting would ordinarily be rendered, that the report is available and that a copy thereof would be furnished upon request.

ARTICLE VI. ANNUAL REPORT

The Trustee shall file with the City a written annual report showing pertinent transactions affecting its respective account since the last previous such report. Within ninety (90) days of the receipt of such report, the City may file written objections with the Trustee, with respect to any transaction regarding its account as shown in such report.

ARTICLE VII.. EXPENSES

The City hereby agrees to pay, in addition to its Contributions, and the Trustee is authorized to charge the City an administrative fee based upon a uniform schedule of expense charges adopted by the Board of Trustees and applicable to all member municipalities. It is understood that such schedule may be amended from time to time by the Board, but the Board shall base such schedule on the total amount of administrative expenses necessary to administer the System, based on a realistic budget adopted and approved by the Board at periodic intervals.

ARTICLE VIII. INVESTMENT LIMIT

Funds deposited by the Trustee with any one bank or trust company, shall not exceed twenty-five percent (25%) of the combined capital and surplus of such bank or trust company. Such bank or trust company shall give bond or pledge sufficient federal or municipal securities to secure the deposit of the Trustee.

ARTICLE IX. DISBURSEMENTS FROM TRUST FUND

Section 1. Upon written direction from the City or Pension Committee, the Trustee shall draw checks as designated by the City or Pension Committee, and deliver such checks in such manner and in such amounts and at such time as the City or Pension Committee shall direct.

Section 2. The Trustee shall not be liable for any action taken at the direction of the City or Pension Committee. If action by the Trustee can reasonably be taken only after receipt of direction from the City or Pension Committee, the Trustee may request, in writing, direction from the City or Pension Committee, and the Trustee shall not be liable for failure to act pending the receipt of such direction.

Section 3. The Trustee shall not be responsible for the failure of the City to perform any of its obligations under the Plan, including the duty to remit payments to the Trustee, to provide necessary records concerning Participating Employees and their Earnings to the Trustee or any other procedures required by the rules and regulations of the Trustee.

Section 4. The Trustee shall not be responsible to the City or any Participating Employee for any obligations beyond the extent of the assets on hand for the City or Participating Employees. No rights shall accrue as against the Trustee or the Trust Fund in the event of voluntary or involuntary termination of the Plan by the City.

ARTICLE X. TERMINATION

If the City does not make a Contribution within ninety (90) days of the due date of said Contribution, and if in the opinion of the Trustee such failure jeopardizes the accruing rights of Participating Employees, the Trustee shall notify each Participating Employee in writing at his last known place of residence of the situation. Under such conditions, the Trustee shall continue to manage the Trust Fund, unless the City exercises its termination right, so long as the assets attributable to the City are sufficient to cover the Joint Municipal Employees' Retirement System's expenses and meet the cost of pensions as pensioners retire. When the moneys in the Trust Fund are no longer adequate to meet these obligations, the Plan shall automatically terminate in accordance with Article XIII of the said Plan. The City may terminate this Trust Agreement at any time in accordance with Article XIII of the said Plan.

ARTICLE XI. WITHDRAWAL OF TOTAL TRUST FUND

On any date, the City may direct the Trustee in writing to transfer all or any portion of the amount of the Trust Fund subject to withdrawal to any other funding medium. From the date of receipt of any such request, the Trustee shall, within a period not to exceed six months, return at least one-twelfth (1/12) of the amount subject to withdrawal, less applicable expenses, and shall continue returning one-twelfth (1/12) of such Trust Fund on the first day of each month thereafter until the total amount subject to withdrawal is returned. The value of the amount subject to withdrawal shall be determined in accordance with applicable rules and regulations of the Trustee. When the total amount of the Trust Fund subject to withdrawal has been paid in accordance herewith, this trust shall terminate and the Trustee shall have no further responsibility hereunder.